



**US Army Corps  
of Engineers®**

Nashville District

# Special Public Notice

Public Notice No. 04-21

Date: March 31, 2004

Please address all comments to:  
Nashville District Corps of Engineers, Regulatory Branch  
Attn: Floyd M. Carnes  
3701 Bell Road  
Nashville, TN 37214

**SUBJECT: REGIONAL PERMITS FOR DOCK STRUCTURES**

**LOCATION: NAVIGABLE WATERS OF THE UNITED STATES IN THE TENNESSEE  
RIVER BASIN WITHIN THE REGULATORY BOUNDRIES OF THE  
NASHVILLE DISTRICT WITHIN SLACKWATERS OF CERTAIN LAKES**

**FOR WHOM: THE GENERAL PUBLIC**

Under authority of Section 10 of the Rivers and Harbors Act of 1899, the Nashville District Corps of Engineers is considering reissuance of Department of the Army Regional Permits (RPs) for noncommercial interests to construct fixed and/or floating dock structures within slack waters of certain Tennessee Valley Authority (TVA) lakes.

<u>Location</u>	<u>Proposed RP No.</u>
Kentucky Lake	04-RP-02
Pickwick Lake	04-RP-03
Wilson Lake	04-RP-04
Wheeler Lake	04-RP-05
Guntersville Lake	04-RP-06
Tims Ford Lake	04-RP-07
Upper Bear Creek Lake	04-RP-08
Cedar Creek Lake	04-RP-09
Little Bear Creek Lake	04-RP-10

If reissued, the RPs would authorize the work without processing each activity independently unless it is determined on a case-by-case basis that concerns for the aquatic environment would require such review. The RPs would be reissued for a period of five years during which time cumulative effects of approved activities would be continually monitored. If unforeseen adverse impacts result from the reissuance of these RPs, they may be modified or terminated.

**SCOPE OF WORK:** Construction of fixed and/or floating dock structures for noncommercial interests. Requirements and limitations for the proposed facilities are listed in the Special Conditions (EXHIBIT A).

LOCATION: All navigable waters of the United States within the slack waters of Kentucky Lake, Pickwick Lake, Wilson Lake, Wheeler Lake, Gunter'sville Lake, Tims Ford Lake, Upper Bear Creek Lake, Little Bear Creek Lake, and Cedar Creek Lake. (EXHIBIT B).

NOTIFICATION: Persons who intend to perform work under the RPs would be required to provide the Corps of Engineers the following information:

- a. Name, address, and telephone number of persons applying for and/or performing the work.
- b. Location map (EXHIBIT C)
- c. Accurate plans of the proposed work on 8 ½" x 11" paper. The plans must also show all existing structures at the same location with dimensions (EXHIBIT D).

Upon receipt of the above information, the Corps would review it to determine if it meets the requirements and conditions (EXHIBIT A) of the RPs. Work would not be authorized to commence until the individual receives written acknowledgment from the Corps that the work meets the criteria for approval under the RPs.

Reissuance of the RPs would not relieve the applicant of the necessity of obtaining other Federal, state, or local permits, licenses or authorizations as required. Specifically, the work would require approval from the Tennessee Valley Authority (TVA) under Section 26a of the TVA Act.

The decision whether to reissue the RPs would be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision would reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work would be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. The RPs would be reissued unless the District Engineer determines that it would be contrary to the public interest.

A Provisional Determination has been made that the activities proposed for reissuance under the RPs comply with the requirements for issuance of General Permits as required by 33 CFR 325.3(b). A copy of the Provisional Determination is available in this office for review. The individual activities proposed for issuance under the RPs have been categorically excluded from environmental documentation by 33 CFR Part 325, Appendix B, Paragraph 6, which became effective on March 4, 1988. An Environmental Assessment may be prepared if extraordinary circumstances are revealed during the public interest review.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. It should be noted that the Special and General Conditions for these RPs require notification of the Corps of Engineers should historic or archaeological remains be discovered while accomplishing the work. Furthermore, TVA has the same responsibilities as the Corps of Engineers regarding compliance with the National Historic Preservation Act and other cultural resource rules and regulations. Because TVA is the primary federal landowner, TVA would review these proposed actions and their potential affects on significant cultural resources. Copies of this notice are being sent to the offices of the State Historic Preservation Officer in Alabama, Kentucky, Mississippi and Tennessee.

Based on available information, the proposed work will not destroy or endanger any federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and, therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before **May 1, 2004**, become a part of the record and would be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: Floyd M. Carnes, at the above address, telephone (615) 369-7503.



FILE NO.

EFFECTIVE DATE

REGIONAL PERMIT  
(Dock Structures)

**DEPARTMENT OF THE ARMY REGIONAL PERMIT**

Pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), this Regional Permit (RP) authorizes you to construct the dock facilities as shown on the attached plans provided the work is accomplished and maintained in accordance with the terms and conditions specified below.

**PERMIT CONDITIONS:**

**GENERAL CONDITIONS.**

1. The work must be completed within five years of the date of issuance of the RP.
2. The facilities must be maintained in good condition and in conformance with the terms and conditions of the RP.
3. If any previously unknown historic or archaeological remains are discovered while accomplishing the activity authorized by the RP, the permittee must immediately notify this office. This office will initiate Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. Representatives of the Corps must be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of the RP.
5. The facilities shall not effect threatened or endangered species, as identified under the Endangered Species Act, or endanger the habitats of such species

**SPECIAL CONDITIONS.**

1. Dock structures constructed for permanent boat moorage shall be limited to a maximum of 1200 square feet of displaced water surface area, and that sundecks and fishing docks shall be limited to 500 square feet of displaced water surface area. The size of existing dock structures shall be included in computing the total area of displaced water surface.
2. Structures shall not extend into the waterway more than one-third the distance from the minimum pool shoreline to the opposite shoreline, or 150 feet, whichever is the lesser distance.
3. Structures shall not be located within a narrow section of the river, outside of river bends, or close to the navigation channel, if an adverse effect on navigation is likely to occur.
4. Structures shall be constructed of quality materials and encased styrofoam must be used for flotation; e.g., barrels, drums, etc., are not authorized.
5. Structures permitted may be subject to damage by wave wash from passing vessels. The issuance of this RP does not relieve the permittee from taking all proper steps to insure the integrity of the structures and the safety of boats moored thereto from damage by wave wash and that the permittee shall not hold the United States liable for any such damage.

**FURTHER INFORMATION:**

1. Limits of this authorization.
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorization required by law.

PN 04-21

EXHIBIT A

RPs 04-02 thru 04-10

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project. **The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.**

2. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Reliance on Applicant's Data. The determination of this office that your work meets the criteria for authorization by this permit was made in reliance on the information you provided.

4. Reevaluation of your activity. This office may reevaluate its decision that your activity is authorized by this permit at any time the circumstances warrant. Circumstances that could require reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you regarding the activity proves to have been false, incomplete, or inaccurate.

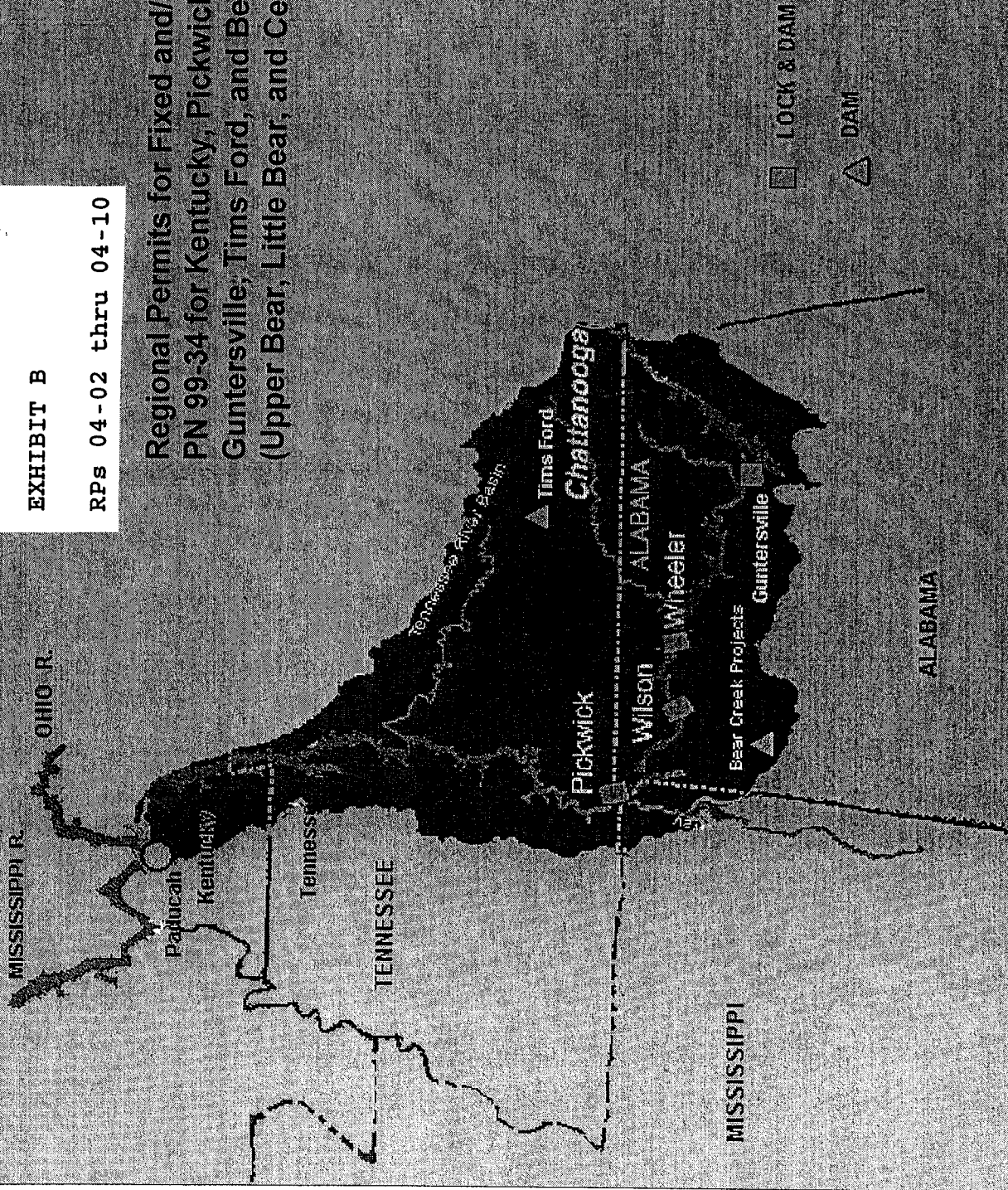
c. Significant new information surfaces which this office did not consider in reaching a decision that your work meets the criteria for authorization under this permit.

PN 04-21

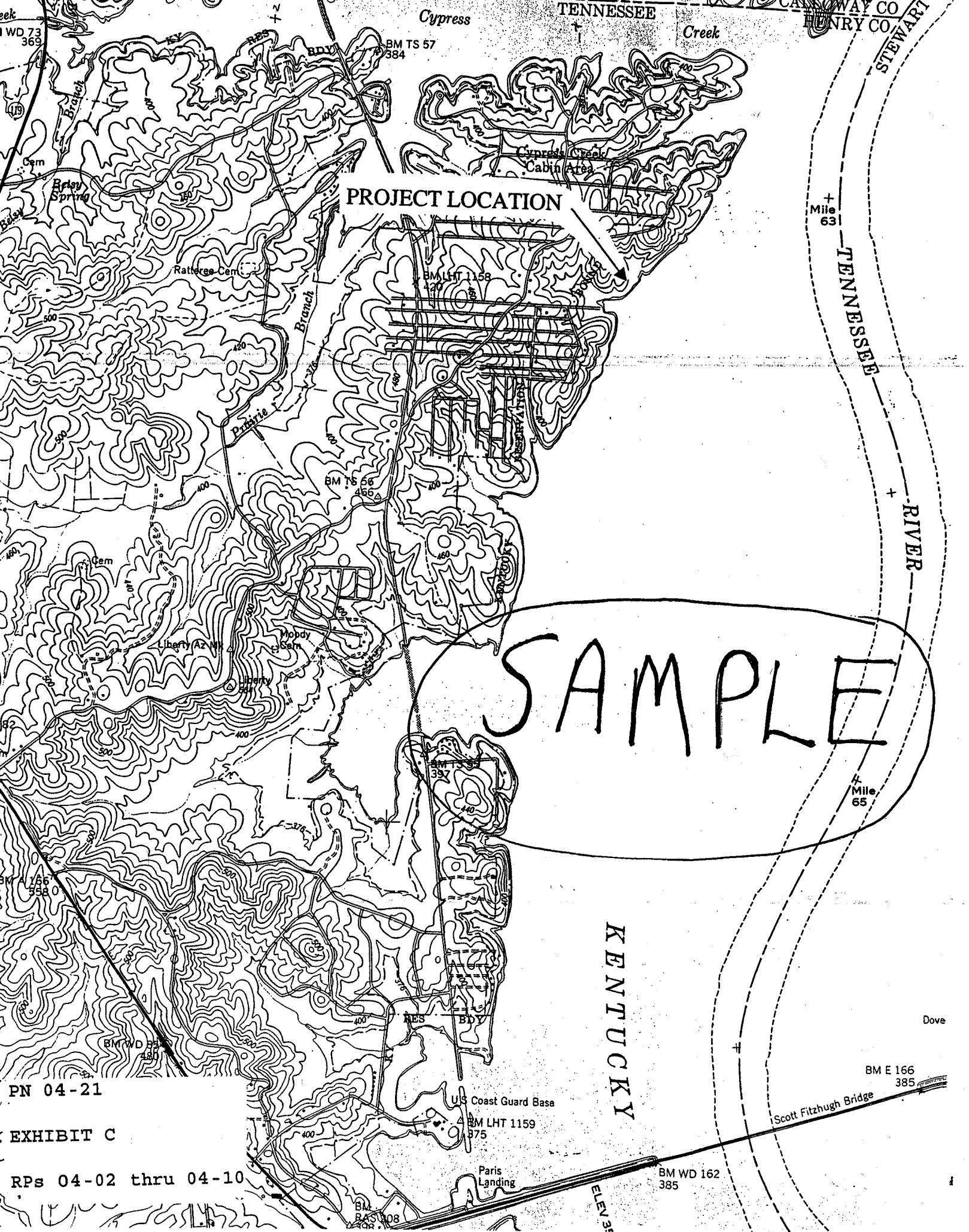
EXHIBIT B

RPs 04-02 thru 04-10

Regional Permits for Fixed and/or Floating Docks  
PN 99-34 for Kentucky, Pickwick, Wilson, Wheeler  
Guntersville, Tims Ford, and Bear Creek Projects  
(Upper Bear, Little Bear, and Cedar Creeks)







PROJECT LOCATION

SAMPLE

KENTUCKY

+ Mile 63

+ Mile 65

Dove

BM E 166 385

Scott Fitzhugh Bridge

BM WD 162 385

US Coast Guard Base

BM LHT 1159 375

Paris Landing

BM BAS 108 408

BM TS 56 466

BM LHT 1158 375

BM TS 57 384

Ratterga Cen.

Liberty Az. W.

Mopdy Cen.

BM WD 162 385

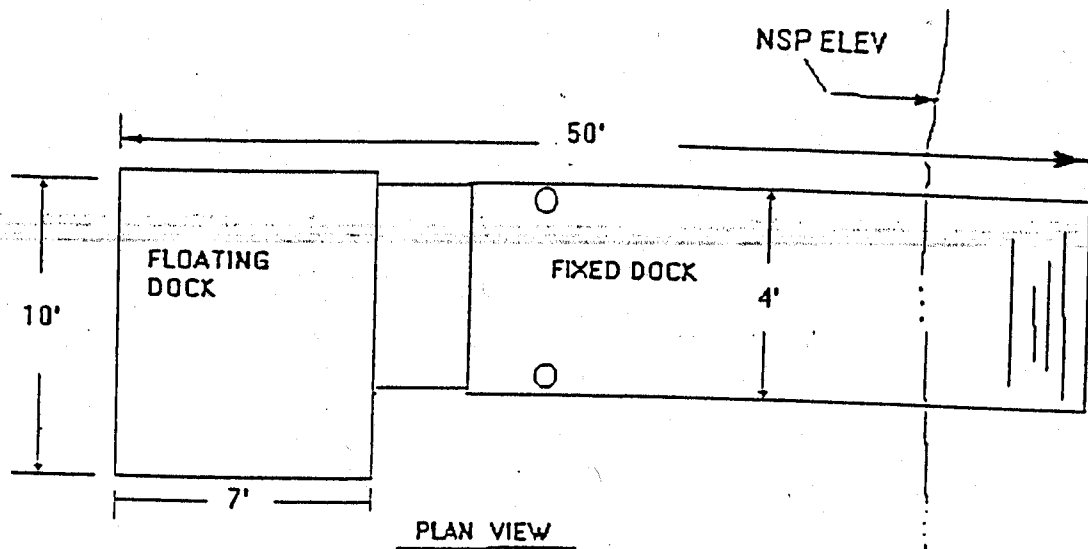
PN 04-21

EXHIBIT C

RP 04-02 thru 04-10

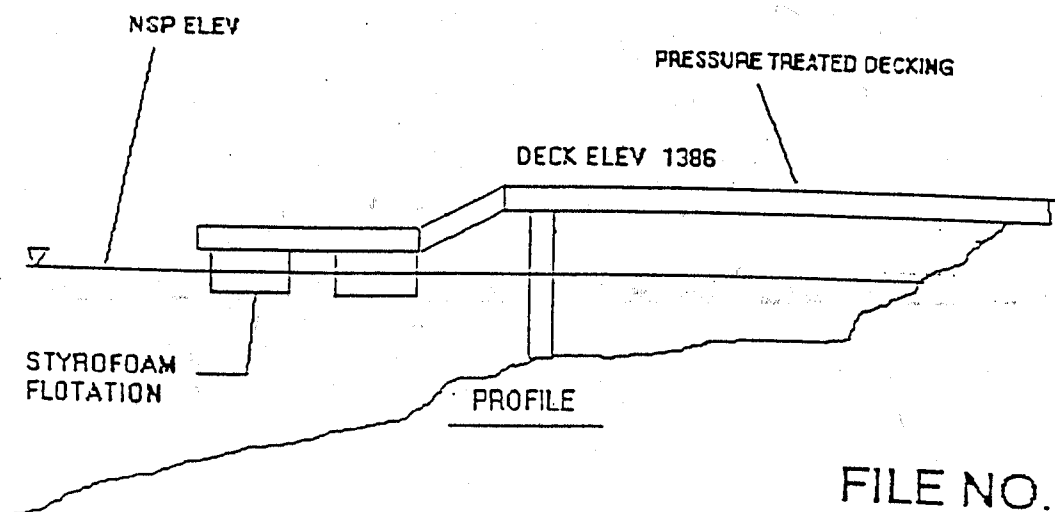


# PROPOSED FIXED AND FLOATING DOCK



SAMPLE

(NOT TO SCALE)



FILE NO. \_\_\_\_\_

PN 04-21

EXHIBIT D

RP's 04-02 thru 04-10